

## **Remarks**

Reconsideration and reexamination of the above-identified patent application, as amended, is respectfully requested. Claims 1-7 and 12-20 are pending in this application upon entry of this Amendment. In this Amendment, no claims have been amended. Claims 16-20 have been added. Claim 14 has been cancelled in this Amendment. Of the pending claims, claims 1 and 16 are the only independent claims.

In the final Office Action mailed August 30, 2006, the Examiner rejected claims 1-7, 12, 13, and 15 as being unpatentable over U.S. Patent No. 2,827,284 issued to Bunzl ("Bunzl") in view of U.S. Publication No. 2005/0091338 A1 by de la Huerga ("de la Huerga"). The Examiner also objected dependent claim 14 as being dependent upon a rejected base claim. However, the Examiner indicated that claim 14 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### **Claim Objection**

In response to the Examiners objection of dependent claim 14, Applicant has added independent claim 16 which recites all of the limitations of independent claim 1 and the allowable subject matter of dependent claim 14. Hence, claim 14 has been canceled. Independent claim 16 is patentable. Newly added dependent claims 17-20, which are dependent upon independent claim 16, are likewise patentable for at least the same reasons independent claim 16 is patentable.

### **Claim Rejections - 35 U.S.C. § 103**

In the final Office Action mailed August 30, 2006, the Examiner rejected claims independent claim 1 as being unpatentable over Bunzl in view of de la Huerga. Applicant respectfully traverses the Examiners rejection. Independent claim 1 recites:

An automatic door control system that is operable with a door, the system comprising:

a control module assembly having:

a microphone for receiving a voice command;  
a voice recognizer that includes a processor for storing a plurality of waveforms in a voice database and a preset commands database, the voice recognizer comparing the voice command with the voice database and the preset commands database, determining whether the voice command matches the waveforms in the voice database and the present commands database, and generating a signal that corresponds to the voice command if the voice command matches the waveforms stored in the voice database and present commands database; and  
a drive train assembly coupled to the control module assembly and the door, wherein the drive train assembly is configured to receive the signal from the control module assembly to move the door, wherein the drive train assembly is configured to open and close the door.

Applicant submits that neither Bunzl nor de la Huerga individually or in combination render independent claim 1 obvious under 35 USC §103. Applicant further submits that the Examiner has failed to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a) because the Examiner has not established the motivation or suggestion to combine Bunzl and de la Huerga.

It is well settled law that an invention is not obvious where prior art elements are from unrelated/non-analogous fields. The Federal Circuit has expressly stated that “the combination of elements from non-analogous sources, in a manner that reconstructs the applicant’s invention only with benefit of hindsight is insufficient to present a *prima facie* case of obviousness. There must be some reason, suggestion, or motivation found in the prior art whereby a person of ordinary skill in the field of the invention would make the combination.” *In re Oetiker*, 977 F.2d 1443 (Fed. Cir. 1992).

It is also well settled law that the mere fact that prior art may be modified in the manner suggested by the Patent Office does not make the modification obvious unless the prior art suggested the desirability of the modification. *In re Fritch*, 23 USPQ 2d 1780, 1783-1784 (Fed. Cir. 1992). Hindsight cannot be used to support a modification. “It is impermissible to use the claimed invention as an instruction manual or 'template' to piece together teachings of the prior art so that the claimed invention is rendered obvious.” *Id.* at 1784. As such, the

Examiner must explain the motivation to combine or modify the prior art references.

With respect of independent claim 1, however, the Examiner supports the entire obviousness rejection by stating:

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the automatic door control system of Bunzl ('284) with a control module having a voice recognizer and interface as taught by de la Huerga (2005/0091338 A1) since a voice recognizer and interface allows more discrete and secure operating system. (Office Action, pages 2-3).

The Examiner's statement provides no explanation of the motivation, if any, to combine the prior art references. Such a statement, without more, is insufficient to establish a *prima facie* case of obviousness.

Additionally, the prior art elements selected from Bunzl and de la Huerga are from unrelated/non-analogous fields. For the reasons above and below, there is no suggestion or motivation to combine Bunzl and de la Huerga.

Regarding Bunzl, it discloses a device for opening and closing a door. Activation of the device occurs through the use of a push-button switch 4, a foot switch 5, a photoelectric switching device, an electronic switching device or by manual manipulation. (Bunzl - Col. 3, lines 40-43 and Col. 4 lines 60-64). However, as the Examiner concedes, Bunzl "fails to disclose a control module having a voice recognizer and/or user interface." (Office Action; page 2). The Examiner is correct in that Bunzl does not disclose a voice recognizer and/or a user interface. In fact, Bunzl does not suggest a voice recognizer and/or a user interface. Throughout the description of Bunzl, activation of the device occurs only through *physical contact* with a push-button switch 4, a foot switch 5, a photoelectric switching device, an electronic switching or manual manipulation. (Bunzl - Col. 3, lines 40-43 and Col. 4 lines 60-64). There is absolutely no suggestion or teaching of device activation via a voice recognizer. Furthermore there is no suggestion or teaching of a user interface. The Examiner

suggests however, that de la Huerga cures the deficiencies of Bunzl by disclosing a voice recognizer.

De la Huerga discloses “a personal security device to provide access to a *computer terminal* for transmitting identification information and exchanging other digital information with a computer terminal and other compatible devices....” (de la Huerga - Abstract; emphasis added). De la Huerga expressly states that its teachings are in the context of an art area completely unrelated to devices for opening and closing a door. Specifically, de la Huerga states: “As an initial matter, in the interest of simplifying this explanation and unless indicated otherwise, the description which follows describes the invention in the context of a medical facility.” (de la Huerga - Par. [0004]) Throughout the remaining teachings, de la Huerga discusses *ad nauseum*, the use of invention by medical facilities, physicians, and the like.

Contrary to the Examiner’s assertion, de la Huerga does not disclose a voice recognizer as recited in independent claim 1. Particularly, de la Huerga merely discloses, in passing, that in lieu of using a fingerprint pad, a retinal scanner, voice recognition identifier, skin texture identifier, etc., could be used to activate an information collecting device (ICD) 401. (de la Huerga - Par. [0237]). There is no further description regarding a voice recognition identifier. Particularly, de la Huerga does not disclose, as recited by independent claim 1, “a voice recognizer that includes a processor for storing a plurality of waveforms in a voice database and a preset commands database, the voice recognizer comparing the voice command with the voice database and the preset commands database, determining whether the voice command matches the waveforms in the voice database and the present commands database, and generating a signal that corresponds to the voice command if the voice command matches the waveforms stored in the voice database and present commands database.” There is absolutely no teaching or suggestion to utilize the system of de la Huerga with a device for opening and closing a door, as disclosed by Bunzl. As such, de la Huerga does not cure the deficiencies of Bunzl.

In fact, there is not even a general relationship between the fields of the prior art references, which would still be insufficient to provide the motivation to combine Bunzl and de la Huerga. (*In re Alhamad*, Civ. Ap. 97-1345 (Fed. Cir. 1997) (unpublished)). Moreover, the cited prior art references are from unrelated/non-analogous fields, which further substantiate the lack of motivation or suggestion to combine Bunzl and de la Huerga.

For at least the foregoing reasons, independent claim 1 is patentable over the cited art and Applicant respectfully requests withdrawal of the rejection. Additionally, dependent claims 2-7 and 12-15 are likewise patentable by virtue of their dependence upon independent claim 1.

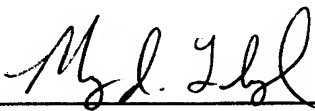
**Conclusion**

In summary, claims 1-7 and 12-20 meet the substantive requirements for patentability. The case is in appropriate condition for allowance. Accordingly, such action is respectfully requested. If a telephone or video conference would expedite allowance or resolve any further questions, such a question is invited at the convenience of the Examiner.

Please charge any fees or credit any overpayments as a result of the filing of this paper to our Deposit Account No. 02-3978.

Respectfully submitted,

**BRIAN FREEMAN**

By   
Myron J. Lloyd  
Reg. No. 53,228  
Attorney/Agent for Applicant

Date: October 30, 2006

**BROOKS KUSHMAN P.C.**  
1000 Town Center, 22nd Floor  
Southfield, MI 48075-1238  
Phone: 248-358-4400  
Fax: 248-358-3351